

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-306-C – ORDER NO. 2019-____
JANUARY __, 2019

IN RE:

Application of SkyBest Communications, Inc. for a)	
Certificate of Public Convenience and Necessity to Provide)	ORDER GRANTING
Resold and Facilities-Based Local Exchange and)	CERTIFICATE AND
Interexchange Telecommunications Services, and for)	APPROVING
Flexible Regulation of its Local Exchange Services and)	ALTERNATIVE
Alternative Regulation of its Interexchange Service)	AND FLEXIBLE
Offerings Within the State of South Carolina)	REGULATION
_____)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of SkyBest Communications, Inc. (“SkyBest” or the “Company”) for a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services within the State of South Carolina (the “Application”).

The Application was filed pursuant to S.C. Code Ann. § 58-9-280(B), and the rules and regulations of the Commission. By its Application, the Company also requested flexible regulation of its local exchange service offerings in accordance with the principles and procedures established in Order No. 98-165 in Docket No. 97-467-C; alternative regulation of its business interexchange service offerings in accordance with the principles and procedures established in Orders No. 95-1734 and 96-55 in Docket No. 95-661-C, as modified by Order

No. 2001-997 in Docket No. 2000-407-C; and alternative regulation of its residential interexchange service offerings in accordance with the principles and procedures established in Order Nos. 84-622 and 93-638 in Docket No. 84-10-C. The Company additionally requests waiver of certain Commission Regulations.

The Commission's Clerk's Office instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No petitions to intervene or comments were filed in this proceeding.

On December 12, 2018, counsel for the South Carolina Office of Regulatory Staff ("ORS") filed a letter with the Commission setting out that ORS had reviewed the Application and did not oppose the Commission granting the Application. ORS also notified the Commission that it did not intend to attend the hearing scheduled in this matter.

A hearing was convened on December 17, 2018, at 10:00 a.m., at the Commission's offices. The Honorable B. Randall Dong, Esquire, Hearing Examiner, presided. Margaret M. Fox, Esquire, represented the Company. Kim Shepherd, Chief Executive Officer of SkyLine Telephone Membership Corporation ("SkyLine"), and President of SkyBest, a wholly-owned subsidiary of SkyLine, appeared via video conference and testified in support of the Application.

The record reveals that SkyBest is a competitive local exchange carrier (“CLEC”) licensed in the States of North Carolina and Tennessee. In addition to its competitive local service offerings, SkyBest is an Internet service provider. SkyBest is a wholly-owned subsidiary of SkyLine, a North Carolina cooperative and incumbent local exchange carrier (“ILEC”). SkyLine is a member-owned cooperative that was organized in North Carolina in 1951 under the North Carolina Rural Electrification Authority, pursuant to the provisions of Chapter 117 of the General Statutes of the State of North Carolina. SkyBest was organized on January 28, 1998 in the State of North Carolina to provide non-regulated services on behalf of SkyLine and to provide competitive services outside of SkyLine’s service area.

Ms. Shepherd testified that SkyBest proposes to offer resold and facilities-based local exchange and interexchange telecommunications services. Local exchange services will be offered within the present operating areas of BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T”), Frontier Communications of the Carolinas, Inc. (“Frontier”), United Telephone Company of the Carolinas, Inc. d/b/a CenturyLink (“CenturyLink”), and Windstream South Carolina, LLC (“Windstream”). Interexchange services will be offered throughout the State of South Carolina. SkyBest intends to provide competitive local exchange service and interexchange service to residential and business customers. SkyBest will also provide custom calling and CLASS features, access to emergency call service (e.g., 911), directory assistance and other ancillary services, as well as bundled services such as local, long distance, and internet services in a combined package. SkyBest will provide its local and interexchange services via a combination of

traditional circuit switched (i.e., time division multiplexed or “TDM”) and voice over Internet protocol (“VoIP”) switching platforms. SkyBest’s TDM and VoIP-based services will be provided on its independently owned, facilities-based network, and when/where convenient, through resale of other telecommunications providers’ networks or services. All services are available twenty-four (24) hours per day, seven (7) days a week.

Ms. Shepherd provided testimony regarding the Company’s technical, managerial, and financial resources to provide the services for which it requests authority. Ms. Shepherd further testified that granting SkyBest’s Application will serve the public interest by providing South Carolinians increased service options, high service quality, and seamless local and long distance service.

Ms. Shepherd testified that local services will meet the service standards required by the Commission, and that the provision of local service by the Company will not adversely impact the availability of affordable local exchange service or otherwise adversely impact the public interest.

Ms. Shepherd testified that the Company will abide by all applicable Commission rules, regulations, and orders upon the Company receiving certification to provide intrastate interexchange and local exchange telecommunications services in South Carolina.

SkyBest has requested certain waivers of Commission regulations. The Company seeks a waiver of the requirement in 10 S.C. Code Ann. Regs. 103-610 to keep all required books and records within the State. SkyBest maintains its books and records at its principal offices in West Jefferson, NC. Maintaining a separate set of books and records in the State

of South Carolina for the Company's South Carolina operations is unnecessary and would be unduly burdensome. SkyBest will make its books and records available to the Commission and the Office of Regulatory Staff ("ORS") in a timely manner upon request. Additionally, the Company seeks a waiver of 10 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. The Company will make arrangements with those incumbent LECs who publish directories in areas where SkyBest provides service, whereby the names of the Company's customers will be included in any such directories. The Company also requested that it be granted a waiver of the map filing requirement of 10 S.C. Code Ann. Regs. 103-612.2.3. The Company's service area will initially mirror the service areas of the incumbent local exchange carriers referenced in its Application.

After full consideration of the applicable law, the Company's Application, and the evidence of record presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is a duly organized corporation which exists under the laws of the State of North Carolina. The Company is authorized by the South Carolina Secretary of State to do business in South Carolina.

2. The Company desires to operate as a facilities-based and resold local exchange and interexchange carrier, providing services to both business and residential customers.

3. The Commission finds that the issuance of a Certificate of Public Convenience and Necessity to SkyBest to operate as a facilities-based and/or resold provider of local exchange telecommunications and interexchange services in South Carolina is in the best interest of the citizens of South Carolina because it will provide South Carolinians increased service options, high service quality, and seamless local and long distance service.

4. The Commission finds that the Company's request for a waiver of the requirement to keep all required books and records within the State is reasonable. The Company maintains its books and records in West Jefferson, North Carolina. Maintaining a separate set of books and records in the State of South Carolina for the Company's South Carolina operations is unnecessary and would be unduly burdensome. The Company shall make its books and records available to the Commission and the ORS in a timely manner upon request. Commission also finds the Company's requests for waivers of the requirements to publish directories and to file service area maps to be reasonable.

5. The Commission finds that the Company possesses the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. § 58-9-280(B)(1).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2).

7. The Commission finds that the Company's provision of service will not adversely impact the availability of affordable local exchange service. S.C. Code Ann. § 58-9-280(B)(3).

8. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4).

9. The Commission finds that the provision of local exchange service by the Company does not otherwise adversely impact the public interest. S.C. Code Ann. § 58-9-280(B)(5).

10. ORS did not appear at the hearing and the fact that it did not oppose granting the Application herein is duly noted.

CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's provision of service will not adversely impact the availability of affordable local exchange service.

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that meet the service standards of the Commission.

5. The Commission concludes that the issuance of a Certificate of Public Convenience and Necessity to SkyBest to operate as a facilities-based and/or resold provider of local exchange telecommunications and interexchange services in South Carolina is in the best interest of the citizens of South Carolina because it will provide

South Carolinians increased service options, high service quality, and seamless local and long distance service.

6. Based on the findings of fact and conclusions of law stated herein, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services within the present operating areas of AT&T, CenturyLink, Frontier, and Windstream. In addition, the Company is granted authority to provide intrastate interexchange services throughout the State of South Carolina.

7. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 1997-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

8. The Commission concludes that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles

and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 1995-661-C. The Commission has previously granted this “alternative regulation” to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers who request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 1995-661-C. However, pursuant to Order No. 2001-997 in Docket No. 2000-407-C, this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as a toll provider. Order No. 2001-997 imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff within the seven (7) days, the tariff filing will be suspended until further order of the Commission.

9. The Commission adopts a rate design for SkyBest for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate

structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE Sprint Communications Corporation, et al.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

10. SkyBest shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, et al.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code § 58-9-540 (Supp. 2018).

11. We grant waivers of 10 S.C. Code Ann. Regs. 103-610, which requires the Company to keep all required books and records within the State; 10 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory; and 10 S.C. Code Ann. Regs. 103-631, which requires publication of directories.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to SkyBest to provide competitive local exchange telecommunications services and interexchange telecommunications services in the State of South Carolina.

2. The regulatory treatment adopted for the Company's services shall conform to the design described above.

3. If it has not already done so, the Company shall file its tariffs utilizing the Commission's e-filing system for tariffs within thirty (30) days of the issuance of this Order. The tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The tariffs shall be consistent with the findings of this Order and with the Commission's Rules and Regulations.

4. The Company shall resell the services of only those local exchange carriers or interexchange carriers authorized to do business in South Carolina by this Commission.

5. The Company shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina specific information. Therefore, the Company shall keep financial records on its South Carolina operations to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website

at www.regulatorystaff.sc.gov. The title of this form is “Telecommunications Company Annual Report.” This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than **April 1st**.

6. Commission gross receipts forms are due to be filed no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website www.regulatorystaff.sc.gov and the appropriate form is entitled “Gross Receipts Form.”

7. Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund (“USF”) Contribution Worksheet, which may be found on the ORS’s website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The State USF worksheet is due to be filed annually no later than **August 1st** with the ORS.

8. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matter, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility

Representative Information” form can be found at the ORS website at www.regulatorystaff.sc.gov. This form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

9. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

10. The Commission grants the Company’s request for waiver of the requirement in 10 S.C. Code Ann. Regs. 103-610 that books and records be kept in the State; waiver of the requirement in 10 S.C. Code Ann. Regs. 103-612.2.3 to file a map of its service territory; and waiver of the requirement of 10 S.C. Code Ann. Regs. 103-631 to publish directories.

11. The Company is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated, which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provide to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial-tone telephone service in South Carolina. By this Order and prior to providing voice or dial-tone services within South Carolina, the Company is directed to contact the 911 Coordinator in each county, as

well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

12. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Comer H. Randall, Chairman

ATTEST:

Elliott F. Elam, Jr., Vice Chairman

(SEAL)